

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

SAMANTHA HENDRICKS

Plaintiff,

V.

**AMERICAN SHIPPING AND
PACKAGING, INC., and**

MALIEK D. CARTHORN,

Defendants.

Civil Action No.: 5:17-cv-2549

District Judge: John R. Adams

**PLAINTIFF’S, SAMANTHA HENDRICKS, MOTION FOR TELEPHONE
CONFERENCE**

Now comes Plaintiff, Samantha Hendricks, by and through counsel, and requests a Telephone Conference with the Court and all counsel. To date, Defendant, Maliek D. Carthorn, has not yet issued payment due to Plaintiff pursuant to the parties' Settlement Agreement. Plaintiff therefore requests a brief Telephone Conference with the Court and all counsel in order to discuss this issue and court intervention. A Memorandum in Support of this Motion is attached.

Dated: October 25, 2018

Respectfully Submitted,

**BARKAN MEIZLISH HANDELMAN
GOODIN DEROSE WENTZ, LLP**

/s/ Robert E. DeRose

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Jessica R. Doogan (OH Bar No. 0092105)

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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was filed electronically. Notice of this filing will be sent by operations of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's ECF system.

Dated: October 25, 2018

/s/ Jessica R. Doogan

Jessica R. Doogan

Attorney for Plaintiff

**MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION FOR TELEPHONE
CONFERENCE**

On September 10, 2018, Plaintiff's counsel, on behalf of all parties, filed with this Court a Joint Motion to Approve Settlement (Doc. # 16). Attached to that Motion as "Exhibit A" was the parties' executed Settlement Agreement and General Release ("Agreement") (Doc #16-1). The Agreement was executed by Plaintiff on September 7, 2018 (Doc. #16-1, PageID 125), and was executed by Defendant on September 5, 2018 (Doc. #16-1, PageID 121). This Court entered the agreement into the record by issuance of the September 14, 2018 Order granting the Joint Motion to Approve Settlement (Doc. #17).

Pursuant to the Agreement, Defendant was to issue payment to Plaintiff in the amount of four thousand five hundred dollars (\$4,500.00), to be issued within thirty (30) days of the execution of the Agreement. (Doc. #16-1, PageID 118-119). The payment due date, under the terms of the Agreement entered by this Court was October 7, 2018.

Plaintiff, in an effort to avoid additional attorneys' fees and intervention by this Court, has given significant leeway in regard to the payment due date. Plaintiff's counsel did not reach out to Defendant's counsel to inquire about the delay in payment until more than thirty (30) days from the date of the Court's approval of the Agreement. On October 16, 2018, Plaintiff's counsel spoke to Defendant's counsel by phone to inquire as to the delay. At that time, Defendant's counsel indicated he would contact Defendant to inquire as to the delay and would return a phone call or email to Plaintiff's counsel. On October 17, 2018, having heard no response from Defendant's counsel, Plaintiff's counsel again attempted to contact Defendant's counsel by phone. Receiving no response to that call, Plaintiff's counsel called again on October 18, 2018 and followed up with Defendant's counsel by e-mail. Late in the day on October 18, 2018, having received no response from Defendant's counsel Plaintiff's counsel informed him by e-mail this Court would be contacted to resolve the matter if no update was provided.

After hours on October 18, 2018, Defendant's counsel responded to Plaintiff's counsel's e-mail requests for a status update, indicating that this issue was not a priority and indicating he

had not yet heard back from Defendant as to the reason for delay. On October 19, 2018 Plaintiff's counsel responded to defense counsel's e-mail and asked for an update as to the status of the check no later than 12:00 PM on that date. On October 19, 2018 at 9:32 AM, Defendant's counsel left a voicemail for Plaintiff's counsel indicating Plaintiff's counsel could "call whomever [she] desired" or "submit whatever [she] so desired" and that "doesn't make [him] do it faster" as well as citing issues with issuance of a check less withholding to Plaintiff due to Defendant no longer owning the company, American Shipping and Packing, Inc., an issue that had never been previously raised throughout the settlement process or during the drafting of the Agreement. In that voicemail, Defendant's counsel also indicated his client would provide a check date and check number as an update. On October 19, 2018 at 10:02 AM, Plaintiff's counsel responded to defense counsel's voicemail by e-mail, asking that further communication occur by e-mail, and asking for confirmation that his client would be providing the check date and check number as a status update. On October 22, 2018 at 1:53 PM Plaintiff's counsel followed up as to the status of the check, and a response to the October 19, 2018 e-mail. To date, Defendant's counsel has not responded by phone or e-mail, nor has Plaintiff received her check.

Since neither Defendant nor Defendant's counsel has presented any updates or information as to what has caused the delay further, Plaintiff is left with littler recourse other than a request for this Court to intervene. Communication between the parties has clearly broken down. Plaintiff therefore requests a Telephone Conference for this Court to review the facts as set out above and enforce the Agreement entered by this Court.

Dated: October 25, 2018

Respectfully submitted,

**BARKAN MEIZLISH HANDELMAN
GOODIN DEROSE WENTZ, LLP**

/s/ Robert E. DeRose

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Dated: October 25, 2018

/s/ Jessica R. Doogan

Jessica R. Doogan

Attorney for Plaintiff